IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 16515 of 2004

Between:

P.Ch.Varmaiah, s/o Venkaiah,
R.R.District Court, r/o D-133, Govt.P.W.D.Quarters,
Malakpet Colony, Hyderabad-500 036.

.... PETITIONER

AND

1 The Commissioner of Police, Hyderabad.
2 The Station House Officer, Malakpet P.S.,Malakpet,

Hyderabad-36.
3 J.Venkata Murali, s/o.not known

Occ: Sub-Inspector of Police,
Malakpet P.S.Malakpet, Hyderabad-36.

.... RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents in filing the perfunctory charge sheet in C.C.No.182 of 2004 on the file of the XII Metropolitan Magistrate, Hyderabad, without conducting proper enquiry, recording the evidence and without seizing the material objects used by the Accused in the said commission of offence and without conducting Panchanama at the scene of offence, as illegal, arbitrary, and void ab-initio and consequently direct the respondents to re-conduct the investigation and to file Additional charge sheet in the above C.C.No.182 of 2004

Counsel for the Petitioner: MR.N.C.DAS

Counsel for the Respondents: G.P. FOR HOME

The Court at the stage of admission made the following

ORAL ORDER:

Heard both sides.

2. The petitioner obviously is not happy with the way in which the investigation was conducted by the police basing on the complaint made by him and equally so with the charge sheet filed by the police. The charge sheet was filed after completion of investigation on 19-11-2003 and the same was taken cognizance of on 05-04-2004 by the XII Metropolitan Magistrate, Hdyerabad.

3. It is indiscernible as to why the petitioner has been keeping quiet all these days without assailing the alleged defects in the investigation conducted by the police and the alleged defects in the charges that were levelled against the accused.

4. Being a *de facto* complainant, in normal course, he ought not to have kept quiet for a long time without initiating any action or seeking redressal. Keeping quiet for a long time itself is a good reason for this Court to reject the present writ petition.

5. Further more, as already pointed out in the counter affidavit filed by the official respondents, C.C. No.182 of 2004 has already been pending trial before the XII Metropolitan Magistrate, Hyderabad. Once charge sheet had been filed and the same is pending before the trial Court for trial, it is most undesirable for the petitioner to file the present writ petition, and equally undesirable for this Court to entertain this kind of writ petition.

6. For the foregoing reasons, the writ petition is devoid of merit and it is liable to be dismissed.

7. Accordingly, the writ petition is dismissed at the stage of

admission. However, there shall be no order as to costs.

_____

D.S.R.VARMA, J

22ND MARCH 2005

ISN/KRK

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commissioner of Police, Hyderabad.
2 The Station House Officer, Malakpet P.S.,Malakpet,

Hyderabad-36.
3 Two CCs to G.P. for Home, High Court buildings, Hyderabad (OUT)

4 Two CD copies.